

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

FRANCISCO RIZO AND  
HERMELINDA RIZO  
Plaintiffs,

vs.

STATE AUTO PROPERTY & CASUALTY  
INSURANCE COMPANY AND  
DUSTIN CHARLES BRADFORD  
Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

1:17-cv-00347  
Civil Action Number

Jury

**DEFENDANTS' NOTICE OF REMOVAL**

**TO THE HONORABLE JUDGE OF SAID COURT:**

Defendants, State Auto Property & Casualty Insurance Company and Dustin Charles Bradford, file this Notice of Removal pursuant to 28 U.S.C. §1446(a), and would respectfully show as follows:

**I.  
INTRODUCTION**

1. Plaintiffs are Francisco Rizo and Hermelinda Rizo ("Plaintiffs"); Defendants are State Auto Property & Casualty Insurance Company ("State Auto") and Dustin Charles Bradford ("Bradford"). There are no other parties. *See* Plaintiffs' Original Petition, attached as Exhibit "A - 1".

2. On February 17, 2017, Plaintiffs filed Cause No. 2017CI02907, *Francisco Rizo and Hermelinda Rizo v. State Auto Property & Casualty Insurance Company and Dustin Charles Bradford*, in the District Court of Bexar County, Texas, 73<sup>rd</sup> Judicial District ("State Court Action"). *See* Exhibit "A - 1". Plaintiffs' suit alleges breach of contract, violations of the Texas Insurance Code, fraud, conspiracy to commit fraud, and the breach of good faith and fair dealing,

relating to storm damage allegedly suffered at Plaintiffs' home located at 8434 Big Creek Drive, San Antonio, Texas 78242. *See* Exhibit "A - 1". Plaintiffs demanded a trial by jury in their Original Petition. *See* Exhibit "A-1."

3. Citation was issued and State Auto was served with the suit on March 21, 2017. *See* Exhibit "A - 5" and Affidavit of Sherri King, attached as Exhibit "B". Citation was issued to Bradford and Bradford was served with the suit on April 3, 2017. *See* Exhibit "A - 6" and Affidavit of Dustin Bradford, attached as Exhibit "C." State Auto and Bradford file this Notice of Removal within the 30-day time period required by 28 U.S.C. §1446(b). *Bd. of Regents of Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007).

4. Plaintiffs have not filed any amended pleadings and no additional parties have been joined. The State Court's docket sheet is attached hereto as Exhibit "A-7."

## II. REMOVAL BASED ON DIVERSITY JURISDICTION

5. Pursuant to 28 U.S.C. §1332(a), State Auto and Bradford remove this case as it involves a controversy between parties of diverse citizenship and an amount in controversy that exceeds \$75,000.

6. Plaintiffs are citizens of Texas. *See* Exhibit "A - 1". State Auto is a foreign corporation organized under the laws of the state of Iowa with its principal place of business located at 518 E. Broad Street, Columbus, Ohio 43215. *See* Exhibit "B". Bradford is a citizen of Ohio residing at 9350 Wintersweet Court, Plain City, Ohio 43064. *See* Exhibit "C."

7. Additionally, the amount in controversy exceeds \$75,000, excluding interest and costs. 28 U.S.C. §1332(a). Plaintiffs' Original Petition seeks "monetary relief over \$100,000 but not more than \$200,000." *See* Exhibit "A - 1".

8. State Auto and Bradford are the only defendants in this action; therefore, no consent is needed for the removal of this case to federal court.

9. An Index of Exhibits is attached as Exhibit "A". Copies of all pleadings, process, orders, and other filings in the State Court Action are attached to this notice as Exhibits "A - 1" through "A - 6", as required by 28 U.S.C. §1446(a).

10. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this District and within this Division.

11. State Auto will promptly file a copy of this Notice of Removal with the clerk of the court in the pending State Court Action.

**III.**  
**JURY DEMANDED**

12. Plaintiffs demanded a jury in the State Court Action.

**IV.**  
**PRAYER**

WHEREFORE PREMISES CONSIDERED, Defendants pray that this case be removed to the United States District Court for the Western District of Texas, San Antonio Division, and that further proceedings in the State Court Action be discontinued, and that this Court assume full jurisdiction over such action as provided by law.

Respectfully submitted,

/s/ Sterling Elza

Sterling Elza

State Bar No. 24026823

Alicia Murphy

State Bar No. 24095005

Brown, Dean, Proctor & Howell, L.L.P.

306 West 7th Street, Suite 200

Fort Worth, Texas 76102-4905

Tel: 817/332-1391

Fax: 817/870-2427

Email: [selza@brownndean.com](mailto:selza@brownndean.com)

**ATTORNEY FOR DEFENDANTS,  
STATE AUTO PROPERTY & CASUALTY  
INSURANCE COMPANY AND DUSTIN  
CHARLES BRADFORD**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing was served upon the Plaintiffs, by serving counsel of record, Gregory F. Cox, Mostyn Law, 6280 Delaware Street, Beaumont, Texas 77706, (409) 832-2703, and Molly K. Bowen, Mostyn Law, 3810 W. Alabama Street, Houston, Texas 77027 (713) 714-1111, via fax and certified mail, return receipt requested, on this the 14<sup>th</sup> day of April, 2017.

/s/ Sterling Elza

Sterling Elza